

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5049 OF 1997

Barshi Unit of Solapur District
Rockoil Retail Sellers Association.
Solapur .. Petitioner
Petitioner

versus

State of Maharashtra & ors.. Respondents

Mr.Nitin Mulye i.b Mr.G.S.Godbole for Petitioner

Mr.Y.D.Mulani, Assistant Government Pleader for
Respondent nos. 1 to 5.

Mr.R.G.Ketkar for Respondent nos. 6 to 8.

WITH WRIT PETITION NO.5246 OF 1996

Solapur District Kerosene Retailers
Sangh Solapurthrough its Secretary
Mr Chitapure Abdul Rehman M.Hussain.Petitioner

VS

Collector, Solapur & ors .. Respondents

Mr.Nitin Mulye i/b Mr.G.S.Godbole for Petitioner

Mr.Y.D.Mulani, Assistant Government Pleader for
Respondent nos. 1, 2 and 7.

WITH WRIT PETITION NO. 1402 OF 2002

Sahakari Kerosene Vikrayatanchi Sanghatna
thr.its Secretary Prakash Manikchand
Bhavsar .. Petitioner

VS

The State of Maharashtra & ors .. Respondents

Mr.C.G.Gavnekar for Petitioner

Mr.Y.D.Mulani, Assistant Government Pleader for
Respondent nos. 1 to 3.

Mr.Ramesh Karle for Respondent no. 4

CORAM : S.B.MHASE AND
D.G.KARNIK, JJ

DATED : 15th February, 2006

ORAL JUDGMENT (Per D.G.Karnik, J)

1. Heard learned counsel for the appearing parties.

2. Somewhat similar reliefs have been claimed in all these three Writ Petitions though there are some individual variations. Substance of the reliefs claimed in these petitions is as follows :

(i) The respondent-State should be directed to follow its policy decision contained in the order dated 16th September, 1993 (Exhibit B to Writ Petition No.5049 of 1997) and a mandamus to that effect be issued;

(ii) A mandamus be issued to the State directing it not to reduce the monthly quota of kerosene of the retailers and the hawkers;

(iii) The State be restrained from selling kerosene to the consumers directly;

(iv) The State be restrained from appointing any additional hawkers for the sale and distribution of kerosene.

3. So far as relief nos. (iii) and (iv) are concerned, we are of the view that the petitioners

have no right to claim that they alone should be given licence to sell the kerosene on retail basis. The State has a right to sell kerosene either directly or by appointing any dealers or retailers. The State ensures that consumers get adequate supply of kerosene at fair price. There is no vested right in the existing retailers that they alone should sell kerosene to the exclusion of others and there should be no new ventrant in the club of the existing retailers. Prayers (iii) and (iv) have therefore to be rejected outright.

4. As regards first two prayers, Mr.Y.D.Mulani, Assistant Government Pleader states that the policy decision contained in the order dated 16th September, 1993 is still in force and is being followed. He further states that the State would continue to follow the said policy decision untill it is modified. He also states that all the existing dealers/retailors/hawkers are being supplied kerosene as per the quota fixed except in case where sufficient quantity of kerosene is not available. He further says that in case for any particular month sufficient amount of kerosene is not available, there is proportionate reduction in the quota throughout the State subject to certain demographic adjustments as may be necessary to maintain equitable supply of kerosene. Learned

Assistant Government Pleader invites our attention to the affidavit in reply dated 23rd December, 2005 which substantially incorporates the statements made before us now. We are satisfied that by reason of these statement, the first two grievances of the petitioners about non-implementation of the policy decision dated 16th September, 1993 and arbitrary reduction of their quota are redressed and no further orders are necessary.

5. We also notice that Writ Petition bearing W.P.No. 1239 of 1995 was filed for claiming similar reliefs by Solapur Society Kerosene Retailers Sangh. In the said Writ Petition also similar statement was made by the government and the Writ Petition was disposed of without issuing any mandamus. We are satisfied that in this matter also no mandamus needs to be issued.

6. Writ Petitions are therefore disposed of by recording the statements made in the affidavit of the government.

(D.G. KARNIK, J)

(S.B.MHASE, J)